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KOLS.101PA

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EXAMINER

PEREZ, JULIO R

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/809,165	<b>Applicant(s)</b> KUURE ET AL.	
	<b>Examiner</b> JULIO PEREZ	<b>Art Unit</b> 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 09/01/09.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-11, 14-19 and 22-28 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 12, 13, 20-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6-11, 14-19, 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Na et al. (US007031746B2) in view of Griffin (US 2008/0287110).

Regarding claim 1, Na discloses a method comprising:

performing data streaming communication between a mobile terminal and a server connected to a network infrastructure providing a radio interface connection between the mobile terminal and the server, wherein the server is external to the network infrastructure (col. 2, lines 16-32, and 60-65, a transmitted signal from a satellite, i.e., it reads as a sever, is transmitted with data streaming signal; i.e., video on demand, which corresponds to data streaming, and hence is sent for a depository or server, which serves as a sever, or a remote site, and thus must be communicating via a terrestrial network);

receiving a communication connection request message from the network infrastructure in the mobile terminal (col. 5, lines 34-48, describe the system receiving a

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voice call (phone call) while the system is processing multimedia signals, streaming; thus, it reads on receiving request for a communication connection to the terminal);

indicating reception of the communication connection request to a user of the mobile terminal (col. 5, lines 49-61, shows the user able to take the call with his answering, thus, it reads on indicating to the user of the receiving call);

receiving in the mobile terminal a first mode change command generated by the user (col. 5, lines 49-61, describes the user able to answer the call, thus able to change the mode to answering if he/she wishes while the multimedia is in progress; therefore, it reads on first mode change command generated by the user);

requesting for suspension of the data streaming communication on the basis of the first mode change command (col. 5, lines 34-61; col. 6, lines 6-17, describe the system able to discontinue processing of multimedia or part of the audio or the video if decided to answer the incoming call; it interrupts the media from receiving while in a call);

and accepting the communication connection on the basis of the first mode change command (col. 5, lines 34-61; col. 7, lines 29-45, shows the call being accepted by the user; thus, accepting the communication connection).

Although Na discloses suspension of data streaming and communication of a call to the user, Na does not explicitly disclose is requesting for suspension of the data streaming from the sever on the basis on the mode change command. Griffin, however, recites a cellular system to include devices associated with at least a base station and



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receiving in the mobile terminal a second mode change command generated by the user (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time); releasing the communication connection on the basis of the second mode change command Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time); and requesting for continuation of the data streaming communication on the basis of the second mode change command (Na, col. 5, lines 34-48; 49, describes the system receiving a voice call and resuming streaming of data at later time).

Regarding claim 7, the combination discloses claim 1, further including: receiving a communication connection release message from the network infrastructure Na, (col. 5, lines 34-48, describes the system resuming streaming of data at later time); indicating the reception of the communication connection release message to the user; receiving in the mobile terminal a third mode change command generated by the user (Na, col. 5, lines 34-48); requesting for continuation of the data streaming communication on the basis of the third mode change command (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time).

Regarding claim 8, the combination discloses claim 1, further including: receiving a communication connection release message from the network infrastructure Na, (col. 5, lines 34-48, describes the system resuming streaming of data at later time); indicating the reception of the communication connection release message to the user; receiving in the mobile terminal a third mode change command generated by the user (Na, col. 5, lines 34-48); requesting for continuation of the data streaming communication on the

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basis of the third mode change command (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time).

Regarding claim 26, the combination discloses of claim 1, further comprising: performing the data streaming communication by communicating between the mobile terminal and the server on an application level infrastructure (Griffin, pars. 27-28, 33); and requesting for the suspension of the data streaming communication from the server on the application level on the basis of the first mode change command infrastructure (Griffin, Figure 4, #'s 31, 33, 41; pars. 27-28, 33).

Regarding claim 9, Na discloses a mobile terminal comprising:

a communication performing data streaming communication between a mobile terminal and a server connected to a network infrastructure providing a radio interface connection between the mobile terminal and the server, wherein the server is external to the network infrastructure (col. 2, lines 16-32, and 60-65, a transmitted signal from a satellite, i.e., it reads as a sever, is transmitted with data streaming signal; i.e., video on demand, which corresponds to data streaming, and hence is sent for a depository or server, which serves as a sever, or a remote site, and thus must be communicating via a terrestrial network);

a message receiving unit for receiving a communication connection request message from the network infrastructure in the mobile terminal (col. 5, lines 34-48, describe the system receiving a voice call (phone call) while the system is processing multimedia signals, streaming; thus, it reads on receiving request for a communication connection to the terminal);

an indicating device for reception of the communication connection request to a user of the mobile terminal (col. 5, lines 49-61, shows the user able to take the call with his answering, thus ,it reads on indicating to the user of the receiving call);

a command receiving in the mobile terminal a first mode change command generated by the user (col. 5, lines 49-61, describes the user able to answer the call, thus able to change the mode to answering if he/she wishes while the multimedia is in progress; therefore, it reads on first mode change command generated by the user);

a control unit for requesting for suspension of the data streaming communication on the basis of the first mode change command (col. 5, lines 34-61; col. 6, lines 6-17, describe the system able to discontinue processing of multimedia or part of the audio or the video if decided to answer the incoming call; it interrupts the media from receiving while in a call);

and a communication control unit for accepting the communication connection on the basis of the first mode change command (col. 5, lines 34-61; col. 7, lines 29-45, shows the call being accepted by the user; thus, accepting the communication connection).

Although Na discloses suspension of data streaming and communication of a call to the user, Na does not explicitly disclose is requesting for suspension of the data streaming from the sever on the basis on the mode change command. Griffin, however, recites a cellular system to include devices associated with at least a base station and capacity associated and discontinuing subscription data from downloading from the server (Figure 4, #'s 31, 33, 41, 42, 43, 44; par. 27; par. 28, lines 7-12; par. 33).



Na and Griffin are analogous art because they are from a similar field of endeavor in downloading data stream and receiving voice calls. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Na with the mechanism of stopping the downloading of data stream from a server while receiving a call taught by Griffin in order to accommodate the user of using the communication unit for a conversation while the media content delivery is on hold and, in addition, to use resources more efficiently.

Regarding claim 10, the combination discloses claim 9, wherein the requesting includes: generating a transmission suspension message on the basis of the first mode change command, the transmission suspension message informing the server to suspend transmission of the data stream (Griffin, pars. 27-28, 33); and transmitting the transmission suspension message to the server over the radio interface provided by the network infrastructure (Griffin, Figure 4, #'s 31, 33, 41; pars. 27-28, 33).

~~Regarding claim 11, the combination discloses claim 9, further including:~~

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generating a communication connection acceptance message on the basis of the first mode change command (Griffin, pars. 27-28, 33); requesting for suspension of the data streaming communication on the basis of the communication connection acceptance message; and transmitting the communication connection acceptance message to the network infrastructure (Griffin, Figure 4, #'s 31, 33, 41; pars. 27-28, 33).

Regarding claim 14, the combination discloses of claim 1, further including: generating a connection suspension message on the basis of the first mode change command, the connection suspension message requesting the network infrastructure to

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release a radio connection providing the data streaming communication (Griffin, Figure 4, #'s 31, 33, 41; pars. 27-28, 33); and transmitting the connection suspension message to the network infrastructure (Griffin, pars. 27-28, 33)

Regarding claim 15, the combination discloses of claim 1, further including: receiving a communication connection release message from the network infrastructure; indicating the reception of the communication connection release message to the user (Na, col. 5, lines 34-48); receiving in the mobile terminal a third mode change command generated by the user; requesting for continuation of the data streaming communication on the basis of the third mode change command (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time).

Regarding claim 16, the combination discloses of claim 1, further including: receiving a communication connection release message from the network infrastructure; indicating the reception of the communication connection release message to the user (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time).; receiving in the mobile terminal a third mode change command generated by the user; requesting for continuation of the data streaming communication on the basis of the third mode change command (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time).

Regarding claim 27, the combination discloses of claim 9, wherein the communicating unit is configured to perform the data streaming communication by communicating between the mobile terminal and the server on an application level, and

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the data streaming control unit is configured to request for the suspension of the data streaming communication from the server on the application level on the basis of the first mode change command (Griffin, Figure 4, #'s 31, 33, 41; pars. 27-28, 33).

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Na et al. (US007031746B2) in view of Griffin (US 2008/0287110).

Regarding claim 17, Na discloses computer process for performing data streaming communication between a mobile terminal and a server connected to a network infrastructure providing a radio interface connecting between the mobile terminal and the server, wherein the server is external to the network infrastructure (col. 2, lines 16-32, and 60-65, a transmitted signal from a satellite (read as a sever) is transmitted with data streaming signal; i.e., video on demand, which corresponds to data streaming, and hence is sent for a depository or server, which serves as a sever, or a remote site, and thus must be communicating via a terrestrial network);

receiving a communication connection request message from the network infrastructure in the mobile terminal (col. 5, lines 34-48, describe the system receiving a voice call while the system is processing multimedia signals; thus, it reads on receiving request for a communication connection to the terminal));

indicating reception of the communication connection request to a user of the mobile terminal (col. 5, lines 49-61, shows the user able to take the call, thus ,it reads on indicating to the user of the receiving call); receiving in the mobile terminal a first mode change command generated by the user (col. 5, lines 49-61, describes the user able to answer the call, thus able to change the mode to answering if he/she wishes

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while the multimedia is in progress; therefore, it reads on first mode change command generated by the user);

requesting for suspension of the data streaming communication on the basis of the first mode change command (col. 5, lines 34-61; col. 6, lines 6-17, describe the system able to discontinue processing of multimedia or part of the audio or the video if decided to answer the incoming call);

and accepting the communication connection on the basis of the first mode change command (col. 5, lines 34-61; col. 7, lines 29-45, show the call being accepted by the user).

Although Na discloses suspension of data streaming and communication of a call to the user, Na does not explicitly disclose is requesting for suspension of the data streaming from the sever on the basis on the mode change command. Griffin, however, recites a cellular system to include devices associated with at least a base station and capacity associated and discontinuing subscription data from downloading from the server (Figure 4, #'s 31, 33, 41, 42, 43, 44; par. 27; par. 28, lines 7-12; par. 33).

Na and Griffin are analogous art because they are from a similar field of endeavor in downloading data stream and receiving voice calls. Thus, it would have obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Na with the mechanism of stopping the downloading of data stream from a server while receiving a call taught by Griffin in order to accommodate the user of using the communication unit for a conversation while the media content delivery is on hold and, in addition, to use resources more efficiently.

Regarding claim 18, the combination discloses claim 17, wherein the requesting includes: generating a transmission suspension message on the basis of the first mode change command, the transmission suspension message informing the server to suspend transmission of the data stream Griffin, pars. 27-28, 33); and transmitting the transmission suspension message to the server over the radio interface provided by the network infrastructure (Griffin, Figure 4, #'s 31, 33, 41; pars. 27-28, 33).

Regarding claim 22, the combination discloses of claim 1, further including:  
generating a connection suspension message on the basis of the first mode change  
command, the connection suspension message requesting the network infrastructure to  
release a radio connection providing the data streaming communication; and  
transmitting the connection suspension message to the network infrastructure command  
(Na, col. 5, lines 34-48; 49, describes the system receiving a voice call and resuming  
streaming of data at later time).

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receiving in the mobile terminal a third mode change command generated by the user (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time); requesting for continuation of the data streaming communication on the basis of the third mode change command (Na, col. 5, lines 34-48, describes the system receiving a voice call and resuming streaming of data at later time).

Regarding claim 28, the combination discloses of claim 17, wherein the computer process further includes: performing the data streaming communication by communicating between the mobile terminal and the server on an application level; and requesting for the suspension of the data streaming communication from the server on the application level on the basis of the first mode change command (Griffin, Figure 4, #'s 31, 33, 41; pars. 27-28, 33)

Regarding claim 25, Na discloses an apparatus of wireless system the apparatus comprising:

a communication unit for receiving data streaming fro a sever connected to communication between a mobile terminal and a server connected to a network infrastructure providing a radio interface connection between the mobile terminal and the server, wherein the server is external to the network infrastructure (col. 2, lines 16-32, and 60-65, a transmitted signal from a satellite, i.e., it reads as a sever, is transmitted with data streaming signal; i.e., video on demand, which corresponds to data streaming, and hence is sent for a depository or server, which serves as a sever, or a remote site, and thus must be communicating via a terrestrial network);

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a message receiving unit for receiving a communication connection request message from the network infrastructure in the mobile terminal (col. 5, lines 34-48, describe the system receiving a voice call (phone call) while the system is processing multimedia signals, streaming; thus, it reads on receiving request for a communication connection to the terminal);

an indicating device for reception of the communication connection request to a user of the mobile terminal (col. 5, lines 49-61, shows the user able to take the call with his answering, thus ,it reads on indicating to the user of the receiving call);

a command receiving device in the mobile terminal a first mode change command generated by the user (col. 5, lines 49-61, describes the user able to answer the call, thus able to change the mode to answering if he/she wishes while the multimedia is in progress; therefore, it reads on first mode change command generated by the user);

a data streaming control unit for requesting for suspension of the data streaming communication on the basis of the first mode change command (col. 5, lines 34-61; col. 6, lines 6-17, describe the system able to discontinue processing of multimedia or part of the audio or the video if decided to answer the incoming call; it interrupts the media from receiving while in a call);

and a communication connection control unit for accepting the communication connection on the basis of the first mode change command (col. 5, lines 34-61; col. 7, lines 29-45, shows the call being accepted by the user; thus, accepting the communication connection).

Although Na discloses suspension of data streaming and communication of a call to the user, Na does not explicitly disclose is requesting for suspension of the data streaming from the sever on the basis on the mode change command. Griffin, however, recites a cellular system to include devices associated with at least a base station and capacity associated and discontinuing subscription data from downloading from the server (Figure 4, #'s 31, 33, 41, 42, 43, 44; par. 27; par. 28, lines 7-12; par. 33).

Na and Griffin are analogous art because they are from a similar field of endeavor in downloading data stream and receiving voice calls. Thus, it would have obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Na with the mechanism of stopping the downloading of data stream from a server while receiving a call taught by Griffin in order to accommodate the user of using the communication unit for a conversation while the media content delivery is on hold and, in addition, to use resources more efficiently.

***Allowable Subject Matter***

5. Claims 4, 5, 12, and 13, 20, 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art, either singularly or in combination, teach or fairly suggest wherein generating a transmission suspension message on the basis of the first mode change command, the transmission suspension message informing the server to suspend transmission of the data stream; and further transmitting the transmission suspension message to the



6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIO PEREZ whose telephone number is (571)272-7846. The examiner can normally be reached on 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICK EDOUARD can be reached on (571)272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

[illegible]

/J. P./  
Examiner, Art Unit 2617

/Patrick N. Edouard/  
Supervisory Patent Examiner, Art Unit 2617